

SHD Paraphrased Regulations - CalWORKs

109 Time Limits

109-1A

"WtW Grant program" means the Welfare-to-Work (WtW) Grant program described in 42 United States Code (USC) §603(a)(5), which authorizes the U.S. Dept. Of Labor to provide WTW grants to states and local communities. (§42-701.2(w)(1), eff. August 1, 2002)

109-5

The *Crary* lawsuit, which was filed under the Greater Avenues for Independence Program (GAIN) statutes, prohibited establishing caps or limits on supportive services. "State statute still does not permit counties to cap any supportive services costs."

Once an individual reaches the 18 or 24-month time limit and is participating in community service, a county must provide the participant childcare and has the option to provide other necessary supportive services. Those optional supportive services may be provided at an amount determined by the county and may differ from those provided to participants in pre-time limit activities. However, since community service is an assigned work activity, participants would have good cause for not participating if they are not provided the necessary supportive services, under §42-750.11.

While capping necessary supportive services is prohibited, there is no prohibition against a secondary review of proposed service costs beyond a predetermined level of expenditures. For example, under the County Plan, a county could permit staff to authorize or pay up to a certain amount in supportive services costs. Expenditures above this amount could be subject to verification of need through a process involving a narrative explanation in the case file and a review by a supervisor.

(All-County Letter No. 00-12, February 7, 2000; §42-750.11)

109-6A REVISED 7/06

An adult recipient in a one parent AU shall participate each month for 32 hours per week, on average, in WTW activities, unless exempt from WTW. A minimum average of 20 hours per week of participation must be in one or more core welfare-to-work activities. (§42-711.411)

An adult recipient in a two-parent AU, whose basis for aid is unemployment, shall participate each month in welfare-to-work activities, for a minimum average per week of 35 hours. Both parents may contribute toward the 35-hour requirement if one parent's participation is a minimum average of 20 hours per week. A minimum average of 20 hours per week of participation must be in one or more core welfare-to-work activities. (§42-711.421)

109-6D

To comply with State statutes and regulations, a county's plan for its community service component must not routinely require individuals to participate in welfare-to-work activities, other than community service or unsubsidized employment, and/or count the time spent in these other welfare-to-work activities toward an individual's required hours of participation. For instance, a county community service plan that requires all post time-limit recipients to participate in 20 hours of community service, six hours of vocational training, and six hours of job search per week, as part of their community

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service assignment, would not be certifiable. (All-County Letter No. 99-111, December 27, 1999)

109-6E

Individuals may, but are not required to, develop their own community service placements. Counties "may deny a self-initiated community service placement if it is inconsistent with the individual's welfare-to-work plan or does not conform to State statute, regulations, or policies governing community service." (All-County Letter No. 99-111, December 27, 1999)

109-6F

Child care assistance must be provided to community service participants as specified in §42-750. Other supportive services, such as assistance with transportation and ancillary expenses, and personal counseling, may be provided at the county's option as described in the county's plan. Counties are reminded that if they do not provide the supportive services necessary for a recipient to participate in his/her assigned activity or accept employment, a recipient will have good cause for not participating. (All-County Letter No. 99-111, December 27, 1999)

109-7

For purposes of the 18- or 24-month time limits, "no job is currently available" means:

1. The recipient has taken and continues to take all the steps to apply for appropriate positions; and
2. The recipient has not refused an offer of employment without good cause.

(§42-710.5)

109-8

There are individuals who participated in WTW activities, but were not afforded the opportunity to develop an appropriate WTW plan that took into consideration their learning disabilities and need for appropriate activities, services, and accommodations. There are also participants who may have been previously screened, evaluated, and found to have learning disabilities, but were not afforded reasonable accommodations in their WTW activities. In both instances, these individuals may have inappropriately accumulated time on their 18- and 24-month time clocks.

To account for these situations, counties must retrospectively adjust an individual's 18- or 24-month time clock when the individual meets all of the following criteria:

1. Has a verified learning disability; and
2. One of the following applies:
 - a. Was not screened and evaluated for learning disabilities before signing the WTW plan; or
 - b. Was screened by the county, evaluated, and found to have a learning disability; and

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3. Signed a WTW plan and participated in WTW activities, but without appropriate accommodations for his/her learning disabilities; and
4. Did not make satisfactory progress or benefit from the WTW activities.

When these four factors are present, the county will adjust the individual's 18- or 24-month time clock as follows:

- > Amend the WTW plan to include appropriate WTW activities, services and/or accommodations.
- > Credit back one full month to the 18- or 24-month time clock for every partial or full month that the individual participated in WTW activities without appropriate accommodations and did not make satisfactory progress or benefit from his or her WTW activities.
- > Provide the individual with written notice on the number of months credited back to his/her 18- or 24-month WTW time clock, the number of months remaining on his/her 18- or 24-month time clock, and the reason for the adjustment.

Individuals who refuse to be screened, evaluated, or accommodated are not eligible for an adjustment of their 18- or 24-month time clock. Existing CalWORKs policies governing the 60-month time limit are unaffected by the policy changes to the 18- and 24-month time clock discussed in this section.

(All-County Letter No. 01-70, October 17, 2001, Enc., p.19)

109-9 ADDED 12/04

Senate Bill (SB) 1104 amended sections of the W&I Code pertaining to the development the CalWORKs plan, WTW participation requirements, and the 18- and 24- month WTW participation period. The bill also authorized CDSS to implement new WTW provisions through All County Letter. CDSS will adopt emergency regulations to implement program changes by July 1, 2005. (ACL 04-41, October 8, 2004, citing SB 1104, Chapter 229, Statutes of 2004)

109-9A ADDED 12/04

The CalWORKs 18- and 24-month time limit for WTW participation has been eliminated. As a result, the post 18- and 24-month time limit community service requirement has also been deleted, along with other program requirements related to this time limit. Under SB 1104, participants may be allowed to participate in any allowable WTW activity, including SIPs, during their 60-month time limit if they comply with work participation requirements (ACL 04-41, October 8, 2004; W&IC §11454)

109-9B ADDED 12/04

CalWORKs participants who have reached the 18- or 24-month time limit and been assigned to community service prior to December 1, 2004, must continue to meet the community service requirement and other provisions of their existing WTW plan until an amended plan that meets SB 1104 participation requirements is developed.

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(ACL 04-41, October 8, 2004; W&IC §11454)

109-17

Upon request for time limit information, a current or former CalWORKs recipient shall be notified, in writing, of the following within 30 calendar days from the date of receipt of the request:

- (a) The cumulative number of countable months (per §42-302.2) that the recipient received aid.
- (b) The specific months that were exempt from the 60-month time limit since the most recent notification (per §§40-107.14, 40-107.142, 40-107.143(a), or 40-107.144).
- (c) The remaining number of months that the recipient may be eligible to receive aid.

(§40-107.146, effective March 1, 2002, as renumbered effective April 9, 2003)

109-18

The applicant "shall be informed, by notice of action, at the time that eligibility for aid is authorized, of the cumulative number of countable months that the recipient has received aid, the specific months that were exempt from the 60-month time limit and the remaining number of months that the recipient may be eligible to receive aid." (40-107.411, effective March 1, 2002)

109-19

The recipient shall be informed, by a notice of action (NOA), at redetermination of aid of:

- (a) The number of months the recipient received aid as reported on the most recent notice of action.
- (b) The cumulative number of countable months that the recipient received aid and the specific exempt months since the last notice of action, or the beginning of aid if there has been no prior NOA.
- (c) The remaining number of months that the recipient may be eligible to receive aid.

(§40-107.142, as revised effective April 9, 2003, referencing §40-107.141)

109-19A

Despite the adoption of §40-107.14, effective March 1, 2002, the CDSS issued the following All-County Information Notice (ACIN) which states, in pertinent part, as follows:

"Testimony from the counties indicated that the requirements for notices of action (NOAs) with specific detailed information would impose a prohibitive and costly workload on county staff since not all counties have been able to automate the notice at this time. In an effort to address these concerns, CDSS is modifying the regulations to allow counties the option to provide the attached informing notice, Notice of Your CalWORKs Time Limit – 54th Month On Aid (CW 2189), to notify recipients who have reached their 54th month on aid. Accordingly, counties must

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send either the NOA or the informing notice to recipients during the month of July 2002 to ensure that recipients are fully informed of their remaining time on aid. Additionally, to ensure that recipients have information regarding time limit exemptions, counties must send a copy of the CalWORKs 60-Month Time Limit form CW 2184 (4/02) along with the time limit NOA or informing notice.

"The regulations will be readopted with the change for the optional 54th month on aid informing notice. As CDSS is considering further modifications to the informing process based on the extensive testimony received, counties will be provided additional instructions on other changes to the procedures to inform recipients of their remaining time on aid. These instructions will be issued in an ACL as the regulatory process is finalized."

(ACIN No. I-47-02, June 28, 2002)

New regulations were issued effective April 9, 2003. These regulations provided that, at the 54th countable month of aid, a notice of action (NOA) must be sent which meets the requirements of §40-107.142 (which Section refers to §40-107.141); or the notice must inform the recipient of the cumulative number of countable months of aid, and the remaining months of eligibility. (§40-107.143). No NOA is required if an adequate 60-month NOA was sent within the previous three calendar months, or if the individual has established an exemption based on being 60 years of age or older (§40-107.145)

109-20

A timed out adult is an adult who has been removed from the AU because that adult has exceeded the 60-month CalWORKs time limit set forth in §42-301. (§82-833.1, effective March 1, 2002)

109-21

In general, no individual who has received TANF or Cal WORKs benefits as an adult for a total of 60 months from January 1, 1998 and forward, is eligible for CalWORKs. (§§42-301.1 and 42-302.1)

109-21A

The exceptions to this general rule (i.e., ineligibility for CalWORKs after 60 months of receipt of CalWORKs as an adult) exist when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the following conditions:

- .111 The individual is 60 years of age or older.
- .112 The individual is exempt from participation in WTW due to:
 - (a) Caring for an ill or incapacitated person residing in the home, and the care impairs the individual's ability to be "regularly employed" or to participate in WTW activities.
 - (b) Being a non parent caretaker of a dependent child of the court, a Kin-GAP child, or a child who is at risk of foster care placement; and the caretaking responsibilities exceed those considered normal parenting

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responsibilities so that they impair the individual's ability to be regularly employed or to participate in WTW activities.

- .113 The individual receives State Disability Insurance (SDI), Worker's Compensation Temporary Disability Insurance, IHSS, or SSI/SSP, and the disability significantly impairs the ability to be employed on a regular basis or to participate in WTW activities.
- .114 Upon reaching the 60-month time limit, the county determines the individual is not able to "maintain employment" or to participate in WTW activities, based on a current assessment of the individual, as set forth in §44-302.114(b), and a finding by the county that the individual has a history of participation and full cooperation in WTW activities.

(§42-302.11, effective July 1, 1998 and revised effective July 1, 2000, March 1, 2002, and April 9, 2003) One other exception exists, i.e., when the individual is a victim of domestic abuse, and the county has determined that good cause exists for waiving the 60-month time limit. (§42-302.12)

109-21B REVISED 7/06

When the individual is being evaluated for an exception to the CalWORKs 60-month limitation because of an alleged inability to maintain employment or participate in WTW activities, to determine whether the individual has a history of participation and full cooperation in WTW activities, the following criteria shall be used:

- (a) The county's determination that the individual has a history of participation and full cooperation in WTW activities shall be based on either of the following criteria that may apply:
 - (1) The recipient has not failed to meet satisfactory participation, attendance, and progress requirements, without good cause, as evidenced by the absence of an instance(s) of noncompliance that resulted in a WTW financial sanction during the time an individual was a mandatory WTW participant.
 - (A) For purposes of this section, a sanction received while the individual was a volunteer in the CalWORKs WTW program pursuant to §§42-712.51, or an aid recipient in another state, shall not be considered a WTW sanction.
 - (2) The recipient has an instance or instances of noncompliance that resulted in a WTW sanction or sanctions; however, the individual has also maintained to the best of his/her ability, a sustained period or periods of WTW participation despite the presence of a significant impairment or combination of impairments, as determined pursuant to §§42-711.56, 42-711.57, 42-711.58, or 42-712.442, including domestic abuse, as determined pursuant to §42-715.
 - (A) For purposes of this section, six months, or two or more periods of WTW participation within a consecutive 24-month period,

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including participation in orientation/appraisal, job search, assessment/evaluations, and post-assessment activities, that equal six-months or more shall be considered a sustained period.

- (B) For purposes of this section, a significant impairment is one that does not meet the welfare-to-work exemption or waiver requirements §§42-712 or 42-715, respectively, but nevertheless limits an individual's ability to perform the physical and/or mental functions necessary to maintain employment or participate in WTW activities.

(§42-302.114(a))

If the county determines that the individual has a history of participation and full cooperation in WTW, the county shall assess the individual's current ability to maintain employment or participate in WTW activities, using the criteria set forth in (b), below:

- (1) An individual who is fully participating in her/his WTW assignment upon reaching the 60-month time limit shall be considered capable of work unless the individual's required hours of participation or WTW activity have been modified in accordance with §42-302.114(b)(2)(B).
- (2) The county determines that an individual is incapable of maintaining employment or participating in WTW activities, based upon, but not limited to, one of the following criteria:
- (A) The individual has a documented impairment or combination of impairments, as set forth in §42-302.114(a)(2), that the county has determined severely limits the individual's ability to successfully maintain employment or participate in WTW activities for 20 or more hours per week.
- (B) The individual has a documented impairment or combination of impairments, as set forth in §42-302.114(a)(2), and is maintaining participation in WTW activities only through a significant modification in those activities.
- (C) The individual has a documented impairment or combination of impairments, as set forth in Subsection (a)(2) above, and local labor market conditions limit the availability of employers that could reasonably accommodate the individual's physical and/or mental limitations.

(§§42-302.114(b), effective March 1, 2002 and revised effective April 9, 2003)

109-22 REVISED 8/04

Any month or partial month in which an adult is included in an AU that receives a cash grant (including a special need payment) shall count towards the 60-month time limit, except if the month was an exempt month (§42-302.21) or part of a diversion count (§42-302.22). (§42-302.2)

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109-23

Any month in which any of the following conditions exists for any period during the month shall not count toward the 60-month time limit:

- (a) The individual is exempt from WTW participation requirements due to a verified disability that is expected to last at least 30 days.
- (b) The individual is exempt from WTW due to:
 - (1) The need to care for an ill or incapacitated person residing in the home.
 - (2) Being the nonparent caretaker of a dependent child of the court, a kin-GAP child, or a child who is at risk of placement in Foster Care. The caretaking responsibilities must be beyond normal day-to-day parenting responsibilities.

(In both (1) and (2), the individual's ability to be "regularly employed", or to participate in WTW activities, must be impaired.)
- (c) The individual is a victim of domestic abuse, and good cause (per §42-713.22) exists for waiving the 60-month limit.
- (d) The individual is eligible for, participating in, or exempt from Cal-Learn or another teen parent program approved by the CDSS.
- (e) The individual is at least 60 years old.
- (f) The individual is excluded from the AU for reasons other than exceeding the time limit.
- (g) The cash aid received in California or elsewhere has been fully reimbursed because of child support collection.
- (h) The individual lived in Indian country, or in certain Alaskan native villages.
- (i) The individual is a former cash aid recipient and is only receiving child care, case management or supportive services.
- (j) The recipient does not receive a cash aid payment because the eligible grant amount is less than \$10.

(§42-302.21, as revised effective March 1, 2002 and April 9, 2003)

109-23A

State law (W&IC §11454.5(b)(3) and regulations 42-302.21(g)) require that any month in which cash aid is fully reimbursed as a result of child support collection, whether collected in that month or any subsequent month, shall be exempt from the CalWORKs 60-month time limit.

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In order to comply with the requirement that both current and subsequent child support collections are applied to reimburse and exempt monthly aid, counties are required to track the recoupment of aid through child support collections. All child support recoupment, including collections for a current month, arrearages, and lump sum payments, collected from January 1998 forward, shall be cumulatively applied to repay aid payments in the following manner:

1. The cumulative child support recoupment (i.e., child support that has been assigned and collected to repay aid) will be applied to each month of aid, starting with the earliest unreimbursed month(s) of aid, on or after January 1998. The county shall move forward chronologically as each month's grant is fully reimbursed as set forth below.
2. Each month of aid that is fully reimbursed by child support shall be exempt and therefore not counted toward the CalWORKs 60-month time limits of the mandatory aided adults in the AU. Beginning October 1998, this includes disregard payments.
3. The child support recoupment amount will be applied to all month(s) of aid whether or not the month had been previously exempted for any other reason, including any month(s) exempt because the individual was unaided due to a sanction or other reasons.
4. The child support recoupment amount must be reviewed to determine if the cumulative amount is sufficient to reimburse and exempt a monthly grant amount. Any child support amount that remains but is insufficient to fully reimburse a monthly grant, whether collected in the current month or for a previous period of time, shall be carried forward and used for any subsequent unreimbursed month(s) of aid.
5. Records of the aid payments and the cumulative child support recoupment amounts will be retained until the months of aid have been fully reimbursed and the exempt months are recorded and validated.
6. As recipients transfer to other counties, information regarding the balance of the child support recoupment and number of months exempt due to child support recoupment must be reported to any subsequent county(ies) to continue reimbursement of the subsequent months of aid.
7. For purposes of tracking this exemption, counties will use the Welfare Data Tracking Implementation Project (WDTIP) system to "untick" the months of aid for the exemption.

(All-County Letter No. 02-74, October 1, 2002, and issued in §42-302.21(g), with the exception of 5. and 7. above.)

109-23B

For purposes of the 60-month time limit for adult CalWORKs recipients, an overpayment month (i.e. an entire month of aid in which the recipient was not entitled to the cash aid) that is fully repaid by grant reduction or any other means, does not count toward the

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CalWORKs/TANF 60-month time limit. When it is determined that an overpayment occurred, the county must calculate the amount of the overpayment and determine the period of time for which the recipient was not entitled to the cash aid. Counties shall follow overpayment recovery procedures as provided in state regulations (contained in §44-352).

Counties are required to "untick" only the repaid overpayment months, in which the family was entirely ineligible for aid. For all other overpayments that occur in partially eligible months, those months will continue to count toward the 60-month time clock.

(All-County Letter No. 02-74, October 1, 2002)

109-24

Diversion payments as set forth in §81-215 count toward the 60-month time limit unless they are recovered (see §42-302.223(a)) or exempt "as provided in §42-302.21 et seq." (§42-302.22, as revised effective August 1, 1999)

109-25

Counties are required to notify CalWORKs recipients at the redetermination, and at the 54th and 58th months on aid, when no previous time-in-aid notice of action (NOA) has been issued, of the 60-month time limits for receipt of CalWORKs. Counties are required to use the M40-107a NOA. (All-County Letter No. 02-33, May 1, 2002, p.3) Regulations clarifying these NOA requirements were issued April 9, 2003. (§§40-107.141 through .149)

109-26

A CalWORKs recipient can request an exemption/exception to the 60-month time limit verbally or in writing. When a recipient states that s/he meets a condition that qualifies as an exemption or exception to the limit, the county shall document the request and provide the recipient with an exemption/exception request form if necessary to complete the request. (§42-302.3, effective March 1, 2002)

109-27

The form to request an exemption or exception to the 60-month time limit shall include, but is not limited to, the following:

- (a) A description of the exemptions to the CalWORKs 18- or 24-month time limit, provided in §42-712, the 60-month time limit, provided in §42-302.21, and a description of the 60-month time limit exceptions, provided in §42-302.11.
- (b) A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.
- (c) A statement that exemptions for aid reimbursed by child support collected, grant amounts of \$10 or less, and months when only supportive services were received, do not require a formal request.
- (d) A statement that the individual will be informed, in writing, as to whether the exemption/exception was granted or not and the reason for the determination.

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- (e) A statement that the individual may request a State hearing to appeal a denial of an exemption/exception request.

(§42-302.31, effective March 1, 2002)

109-28

The county shall inform the individual, in writing, of the exemption/exception determination within 15 calendar days from the date of receipt of a verbal or written request for an exemption/exception to the 60-month time limit. The specified time limit may be exceeded when completion of the determination is delayed because of circumstances beyond the control of the county. The case record must specify the cause for delay. These instances include:

- (a) Inability on the part of the recipient to provide the necessary verification.
- (b) Delay on the part of an examining physician to provide the necessary information.

(§42-302.32, effective March 1, 2002)

The county shall first research all available and relevant case records before requesting additional verification from the recipient.

(§42-302.33, effective March 1, 2002)

109-29

Prior to April 9, 2003, the notice of action approving or denying a request for an exemption or exception to the 60-month time limit shall include, but is not limited to, the following:

- (a) Notification that a month of aid is or is not exempt from the CalWORKs 60-month time limit based upon the criteria for exempt months provided in §42-302.21 and the reason the exemption is granted or denied; or
- (b) Notification that the individual is or is not eligible to receive assistance beyond the 60-month time limit based upon the criteria for exceptions to the 60-month time limit provided in §42-302.11, and the reason the exception is granted or denied; and
- (c) Notification of hearing rights.

(§42-302.34, effective March 1, 2002, and revised April 9, 2003)

109-29A

The notice of action approving or denying a request for an exemption or exception to the 60-month time limit shall state whether the request was granted or denied, and the reason for the denial. (§42-302.34, effective April 9, 2003)

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109-30

Income and needs of adults living in the home who have been removed from the AU due to exceeding the 60-month CalWORKs time limits shall be treated as follows:

- .81 Net non-exempt income of timed-out parents who are otherwise required to be in the AU and living in the home shall be considered available to the AU. The needs of these parents shall not be considered when calculating the grant for the aided AU members.
- .82 Timed-out non-parent caretaker relatives living in the home are no longer eligible to be optional AU members, and their income and needs shall not be considered when calculating the grant for the aided AU members.
- .83 Timed-out stepparents not required to be in the AU and living in the home are no longer eligible to be optional AU members, and their net non-exempt income and needs shall be determined under §§44-133.51 and 44-133.511.
- .84 For timed-out adults whose income must be considered in the AU's grant computation, net nonexempt income shall be determined as specified at §44-113.2.

(§44-133.8, effective March 1, 2002)

109-31 ADDED 6/04

Counties are required to maintain case records in an automated or non-automated format until the statewide automated time limit tracking system, Welfare Data Tracking Implementation (WDTIP) Project has been validated for accuracy. (All-County Information Notice I-29-03, May 12, 2003)